

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division**

MOUNTAIN VALLEY PIPELINE, LLC,

Plaintiff,

v.

Civil Action No. 7:17CV492-EKD

**EASEMENTS TO CONSTRUCT, OPERATE,
AND MAINTAIN A NATURAL GAS
PIPELINE OVER TRACTS OF LAND IN
GILES COUNTY, CRAIG COUNTY,
MONTGOMERY COUNTY, ROANOKE
COUNTY, FRANKLIN COUNTY, AND
PITTSYLVANIA COUNTY, VIRGINIA,
*et. al.,***

Defendants.

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND TO
RESCHEDULE JANUARY 4, 2019 HEARING ON PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION**

COME NOW Tammy Belinsky (“Belinsky”), on behalf of herself and all persons known and unknown who are consulting with and/or providing counsel to Tree Sitters 1 and 2 (“the Tree-Sitters”), and Daniel Breslau (“Breslau”), on behalf of himself and all those persons known and unknown who are supporting Tree-Sitters 1 and 2 (“the Tree-Sitters”), by counsel, and hereby move for leave to participate in this action so that they may file an *amicus curiae* brief in opposition to and participate in the hearing on the Plaintiff’s Motion for a Preliminary Injunction Against Tree-Sitters on MVP Parcel No. VA-MO-022. Belinsky and Breslau respectfully request that they be given permission to file an *amicus* brief by Wednesday, January 9, 2019, and that the hearing currently scheduled for January 4, 2019 be rescheduled for January 11, 2019, or

such date as chosen by the Court, in order to permit counsel for Belinsky and Breslau to participate in the hearing. In support of this request, Belinsky and Breslau state as follows:

1. John P. Fishwick, Jr., counsel for Belinsky and Breslau, will be in Pittsburgh, Pennsylvania on Friday, January 4, 2019 and Saturday, January 5, 2019 to attend the visitation and funeral of his sister, who passed away earlier this week.

2. Accordingly, counsel for Belinsky and Breslau will be unable to attend the currently scheduled hearing on January 4, 2019 on Mountain Valley Pipeline, LLC's Motion for Preliminary Injunction Against Tree-Sitters on MVP Parcel No. VA-MO-022.

3. Counsel was retained by Belinsky and Breslau on January 3, 2019. Additional time is required to properly prepare an *amicus* brief in this matter.

4. Plaintiff will not be prejudiced by a one-week delay in the hearing on the Motion for Preliminary Injunction.

5. The relief requested by Plaintiff in its Motion for a Preliminary Injunction includes:

D. Making the order applicable to the agents, servants, employees and *attorneys* of the tree-sitters and to *all other persons who are in active concert or participation with them*;

E. Directing the United States Marshal Service to take necessary action to enforce the Court's order, including removing and arresting the tree sitters and those in active concert and participation with them; . . .

Plaintiff's Motion for a Preliminary Injunction Against Tree-Sitters on MVP Parcel No. VA-MO-022 (ECF # 1108) (emphasis added).

6. Belinsky has been retained as an attorney in various anti-pipeline matters and has consulted with representatives of the Tree-Sitters in the instant matter.

7. Breslau is an Associate Professor at Virginia Tech and has supported the efforts of the Tree-Sitters in their protest of the pipeline.

7. Plaintiff's request for relief in its Motion for a Preliminary Injunction is overbroad, and Plaintiff is not entitled to such relief. The Tree-Sitters are not proper parties in this matter, under Federal Rule of Civil Procedure 71.1, and the Plaintiff's requested relief infringes upon the right to counsel, the right to free speech, and due process rights under the United States Constitution. Such rights must be protected.

As stated in the accompanying Memorandum of Law in Support of Motion to File *Amicus Curiae* brief, Belinsky and Breslau seek to offer the Court useful and relevant information for use in its ruling on the Motion for a Preliminary Injunction. Further, the interests of justice will be served by postponing the hearing currently scheduled for January 4, 2019 and permitting Belinsky and Breslau to file a brief and participate in the hearing on the Motion for Preliminary Injunction.

Respectfully submitted,

TAMMY BELINSKY, on behalf of herself
and all persons known and unknown who
are consulting with and/or providing
counsel to Tree Sitters 1 and 2, and
DANIEL BRESLAU, on behalf of himself
and all persons known and unknown who
are supporting Tree Sitters 1 and 2

/s/ Carrol M. Ching

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record and that I will subsequently arrange service of this filing upon Tree-Sitters 1 and 2.

/s/ Carrol M. Ching